



## Decision

**Matter of:** Ekagra Partners, LLC

**File:** B-408685.18

**Date:** February 15, 2019

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Stephen O'Neal, Esq., General Services Administration, and Sam Q. Le, Esq., Small Business Administration, for the agencies.

Jonathan L. Kang, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest challenging a solicitation term that limits the number of experience projects that may be submitted in a mentor-protégé joint venture's proposal for a large business mentor firm is denied where the solicitation term is not prohibited by procurement laws or regulations and where the agency provides a reasonable basis for its inclusion.

2. Protest challenging a solicitation term as unduly restrictive of competition where the term prohibits a mentor-protégé joint venture from submitting a proposal as part of a contractor teaming arrangement that includes additional subcontractors is sustained where, although the solicitation term is not prohibited by procurement laws or regulations, the agency does not provide a reasonable basis for its inclusion.

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### DECISION

Ekagra Partners, LLC, of Leesburg, Virginia, a small business, challenges the terms of request for proposals (RFP) No. GS00Q-13-DR-0002, which was issued by the General Services Administration (GSA), Information Technology Service, for award of new contracts in the agency's One Acquisition Solution for Integrated Services (OASIS)--small business pool of government-wide multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts. The protester argues that the solicitation includes terms that improperly restrict competition by limiting the ways in which a mentor-protégé joint venture may submit proposals.

We sustain in part and deny in part the protest.

## BACKGROUND

GSA administers seven groups of government-wide multiple-award IDIQ OASIS contracts that are set aside for small business. Contracting Officer's Statement (COS) at 1. These seven groups of IDIQ contracts are referred to as pools. Id. These groups of contracts allow agencies to place orders for flexible and innovative solutions for complex professional services. Agency Report (AR), Tab 2, RFP, at 10.<sup>1</sup> This protest concerns the OASIS small business pool 1 contracts. Id. at 7. The agency initially awarded contracts in this pool in 2014; the current solicitation is an "open season On-Ramp," which allows additional firms to compete for the award of contracts. Id. The agency states that it intends to award 190 new IDIQ contracts in pool 1. Id.

GSA issued the RFP on September 10, 2018. The RFP advises that awards will be made to the offerors whose proposals are found to be the most highly rated under the non-cost/price factors and that offer a fair and reasonable cost/price. Id. at 105. For the non-cost/price factors, the proposals are to be evaluated based on factors in two categories: (1) minimum requirements, which are to be evaluated on an acceptable/unacceptable basis, and (2) self-scored evaluation criteria, under which offerors indicate whether they qualify for points. Id. at 108-09. The scored non-cost/price factors are relevant experience; past performance; and systems, certifications, and clearances. Id. at 117-118. The RFP advises that the non-cost/price factors, when combined, are significantly more important than cost/price. Id. at 105.

As relevant here and discussed below, offerors must provide information regarding relevant experience for projects in three categories: (1) pool qualification projects, which "demonstrate an Offeror's experience in performing complex professional services and the responsibility for the overall performance and completion of the entire Project as a Prime Contractor" for a North American Industry Classification System or product service code listed in the solicitation; (2) relevant experience (primary) projects, which "demonstrate an Offeror's experience in performing complex professional services and the responsibility for the successful completion of the entire Project as a Prime Contractor"; and (3) relevant experience (secondary) projects, which "demonstrate an Offeror's experience in managing multiple customers and/or managing in a multiple award contracting environment similar to the OASIS [small business] Program and the responsibility for the successful completion of the entire Project as a Prime Contractor." Id. at 75, 86, 94-95.

The RFP states that offerors' proposals must demonstrate a minimum number of relevant experience projects to be found acceptable under the minimum requirements. RFP at 75, 85-86, 94-95. Proposals that meet the minimum relevant experience requirements will be eligible to receive self-scored points based on various criteria, such as the type and value of work performed. Id. at 77-78, 89, 95. For offerors that submit

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<sup>1</sup> Citations to the RFP and its amendments are to the PDF pages in the documents provided by the agency.

proposals as part of a mentor-protégé joint venture, the RFP states that they may identify projects that were performed by the individual joint venture members. Id. at 83; AR, Tab 5, RFP amend. 3, at 317. For such offerors, however, the RFP limits the number of projects that may be identified as being performed by a large business mentor firm. Id. Ekagra filed this protest prior to the closing date of November 13.

## DISCUSSION

Ekagra raises two primary challenges to the terms of the solicitation: (1) the RFP places unreasonable limits on the extent to which mentor-protégé joint venture offerors can rely on the experience of the large business mentor firm, and (2) the RFP improperly prohibits joint venture offerors from forming a contractor teaming arrangement whereby the offeror relies on the experience of subcontractors that are not one of the joint venture members. Protest at 4-6; Protester's Comments, Dec. 20, 2018, at 2-7. For the reasons discussed below, we find no basis to sustain the protest regarding the first argument, but sustain the protest regarding the second argument.

In preparing a solicitation, a contracting agency must specify its needs in a manner designed to achieve full and open competition, and may include restrictive requirements only to the extent they are necessary to satisfy the agency's legitimate needs, or are otherwise authorized by law. 41 U.S.C. § 3306(a). Where a protester challenges a solicitation term or requirement as unduly restrictive of competition, the procuring agency has the responsibility of establishing that the specification or requirement is reasonably necessary to meet the agency's needs. See Total Health Resources, B-403209, Oct. 4, 2010, 2010 CPD ¶ 226 at 3. We examine the adequacy of the agency's justification for a restrictive solicitation term to ensure that it is rational and can withstand logical scrutiny. SMARTnet, Inc., B-400651.2, Jan. 27, 2009, 2009 CPD ¶ 34 at 7. A protester's disagreement with the agency's judgment concerning the agency's needs and how to accommodate them, without more, does not establish that the agency's judgment is unreasonable. Protein Scis. Corp., B-412794, June 2, 2016, 2016 CPD ¶ 158 at 2.

### Offeror Experience

Ekagra argues that the solicitation's relevant experience factor improperly limits the number of projects that may be submitted by the large business mentor of a mentor-protégé joint venture offeror. Protest at 1, 4-5; Protester's Comments, Dec. 20, 2018, at 3-4. The protester contends that this restriction is inconsistent with statutory and regulatory provisions regarding mentor-protégé small business joint ventures, and that the agency does not provide a reasonable explanation for this restriction. Id. For the reasons discussed below, we find no basis to sustain the protest.

The Small Business Administration's (SBA) small business mentor-protégé program allows small or large business firms to serve as mentors to small business protégé firms in order to provide "business development assistance" to the protégé firms and to "improve the protégé firms' ability to successfully compete for federal contracts."

13 C.F.R. § 125.9(a) & (b). One benefit of the mentor-protégé program is that a protégé and mentor may form a joint venture. Id. § 125.109(d). If SBA approves a mentor-protégé joint venture, the joint venture is permitted to compete as a small business for “any government prime contract or subcontract, provided the protégé qualifies as small for the procurement.” Id. § 125.9(d)(1); see also 13 C.F.R. §§ 121.103(b)(6) & (h)(3)(ii).

The solicitation for the OASIS small business pool 1 contracts that were awarded in 2014 required mentor-protégé joint venture offerors to demonstrate experience for the joint venture itself, and prohibited offerors from relying on the experience of the individual joint venture members. COS at 2-3; see Aljucar, Anvil-Incus & Co., B-408936, Jan. 2, 2014, 2014 ¶ 19 at 5-6 (denying protest challenging OASIS solicitation terms that limited the evaluation of the experience of joint venture offerors to work performed by the joint venture, itself). Subsequent to the 2014 OASIS contract awards, Congress amended the Small Business Act to require agencies to consider the experience of small business joint venture members:

When evaluating an offer of a joint venture of small business concerns for any multiple award contract above the substantial bundling threshold of the Federal agency, if the joint venture does not demonstrate sufficient capabilities or past performance to be considered for award of a contract opportunity, the head of the agency shall consider the capabilities and past performance of each member of the joint venture as the capabilities and past performance of the joint venture.

15 U.S.C. § 644(q)(1)(C). SBA promulgated regulations implementing this statutory provision, including the following:

When evaluating the past performance and experience of an entity submitting an offer for a contract set aside or reserved for small business as a joint venture established pursuant to this section, a procuring activity must consider work done individually by each partner to the joint venture as well as any work done by the joint venture itself previously.

13 C.F.R. § 125.8(e).

The solicitation here requires offerors to submit projects that demonstrate experience in two categories: (1) pool qualification projects, which requires two projects, and (2) relevant experience (primary) projects, which requires a minimum of three and a maximum of five projects. RFP at 75, 86. For the third experience category, relevant experience (secondary) projects, the solicitation allows, but does not require, offerors to submit projects to receive additional self-scored credit in the following areas: (1) a

maximum of five projects with mission spaces<sup>2</sup>; and (2) a maximum of 10 projects with multiple award IDIQ contracts or blanket purchase agreements. Id. at 95, 97.

As relevant to the protester’s arguments, the RFP limits the number of projects that may be submitted by a large business mentor in a mentor-protégé joint venture, as follows:

L.5.1.10. Contractor Team Arrangement [CTA], if applicable

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(d) Offerors who are an existing Partnership or Joint Venture CTA as defined in [Federal Acquisition Regulation (FAR)] 9.601(1) or FAR 9.601(2) may submit a proposal under this Solicitation subject to the following conditions:

2. . . . For any approved Mentor-Protégé Joint Ventures in accordance with 13 CFR 125.8 where the Mentor is not a Small Business under the applicable size standard, that Mentor may submit a maximum of one (1) Pool Qualification Project as defined in L.5.1.2, maximum of two (2) Relevant Experience (Primary) Projects as defined in L.5.3.1, a maximum of two (2) Relevant Experience (Secondary) Projects as defined in Section L.5.3.3.1, and a maximum of two (2) Relevant Experience (Secondary) Projects as defined in section L.5.3.3.2.

RFP amend. 3 at 317.

Ekagra argues that the solicitation’s limitation on the number of projects that may be submitted by a large business mentor firm is unreasonable because it “specifically hinders otherwise qualified and capable small businesses, i.e., the mentor-protégé joint ventures, from presenting their most competitive offers for the Solicitation.” Protester’s Comments, Dec. 20, 2018, at 3 (emphasis omitted). In this regard, the protester notes, as discussed above, that SBA’s regulations provide that an approved mentor-protégé joint venture is considered small for procurements where the protégé firm meets the size requirements. 13 C.F.R. § 125.9(d)(1); see also 13 C.F.R. § 121.103(h)(3)(ii). The protester argues, therefore, that there is no reasonable basis for the agency to distinguish between the mentor and protégé members of a joint venture for purposes of evaluating experience because the joint venture itself would be considered small.

GSA argues that the evaluation criteria are consistent with the requirements of the Small Business Act at 15 U.S.C. § 644(q)(1)(C) and SBA’s regulations at 13 C.F.R. § 125.8(e) because the solicitation provides for the consideration of the experience of

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<sup>2</sup> A mission space is a “U.S. Federal Government Agency whose primary mission falls under Protection and Defense, Quality of Life, Commerce, Natural Resources,” or other defined mission. RFP at 95.

each joint venture partner. See Memorandum of Law (MOL) at 6. The agency contends, however, that the applicable statutes and regulations do not require that the experience of mentor and protégé members of a joint venture be given equal consideration.

Our Office requested that SBA provide its views on the issues raised in this protest. With regard to the evaluation of experience, SBA advises that “neither SBA regulations nor the Small Business Act specifically address the relative consideration that an agency must give to the past performance of a large business mentor in a mentor-protégé joint venture, as compared to a small business protégé.” SBA Comments, Feb. 1, 2019, at 1. SBA further states that, although it may address this matter in future regulations, “presently SBA’s regulations are limited to stating that the agency ‘must consider work done individually by each partner to the joint venture,’” including a large business mentor. 13 C.F.R. § 125.8(e).” Id.

We agree with GSA and SBA that nothing in the statutes or regulations discussed above prohibits the terms of the solicitation. Although SBA regulations require agencies to consider the experience of both the mentor and protégé members of the joint venture, the regulations neither mandate a specific degree of consideration for the mentor and the protégé firm, nor prohibit an agency from limiting the experience that may be submitted by one of the members. In the absence of statutes or regulations that specifically prohibit this solicitation term, we look next to the agency’s rationale for its inclusion.

GSA states that the solicitation limits the amount of experience that can be credited to a large business mentor because allowing a mentor-protégé joint venture to “rely primarily upon the qualifications of their Other Than Small team members’ experience, without any limitation or restriction,” gives the joint venture a “fundamentally unfair competitive advantage” as compared to small businesses that are not part of such joint ventures. COS at 4. The agency further states that the limitation on the experience that can be credited to a large business mentor firm is necessary to ensure that the small business protégé is capable of performing the work. Id. at 5. In this regard, GSA notes that SBA’s regulations require a small business protégé to be the majority owner and managing partner of a mentor-protégé joint venture. Id.; MOL at 8 (citing 13 C.F.R. § 125.8(b)(2)). The agency states that, “[g]iven the tremendously important responsibilities assigned to the Protégé in performance of contracts awarded to a Mentor-Protégé [joint venture],” the agency believes there is “significant predictive value in ensuring the [experience of the] Protégé is adequately considered. . . .” COS at 5.

Ekagra contends that GSA could take an alternative approach to the evaluation of experience. For example, the protester argues that, because a large business mentor firm may perform up to 60 percent of the work awarded to a mentor-protégé joint venture, the agency could limit the mentor’s experience to no more than 60 percent of the overall evaluation weight. Protester’s Comments, Dec. 20, 2018, at 4 (citing 13 C.F.R. § 125.8(c)(3)).

Based on the record here, we agree that GSA has set forth a rational basis for the challenged solicitation term. We think the agency reasonably explains that limiting the amount of experience that may be credited to a large business mentor ensures that the agency will be able to meaningfully consider the experience of the protégé member of the joint venture. Although the protester contends that GSA could take a different approach to the weighting of the mentor's experience, the protester's disagreement with the agency's judgment, without more, does not establish that the solicitation term is unreasonable. We therefore find no basis to sustain the protest.

### Contractor Teaming Arrangements

Next, Ekagra argues that the RFP improperly limits the manner in which an offeror competing as a CTA may submit a proposal. Specifically, the protester argues that the solicitation unreasonably prohibits joint ventures, including mentor-protégé joint ventures, from proposing as a CTA that uses additional subcontractors that are not members of the joint venture, and thereby relying on their experience. Protest at 1, 6; Protester's Comments, Dec. 20, 2018, at 5-7. For the reasons discussed below, we sustain this argument.

Subpart 9.6 of the FAR addresses CTAs and explains that such arrangements "may be desirable from both a Government and industry standpoint in order to enable the companies involved to (1) complement each other's unique capabilities and (2) offer the Government the best combination of performance, cost, and delivery for the system or product being acquired." FAR § 9.602(a). The FAR defines a CTA as follows: "[A]n arrangement in which--(1) Two or more companies form a partnership or joint venture to act as a potential prime contractor; or (2) A potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified Government contract or acquisition program." *Id.* § 9.601.

The RFP provides the following guidance regarding submitting a proposal under a CTA:

#### L.5.1.10. Contractor Team Arrangement, if applicable

(a) "Contractor Team Arrangement" means an arrangement in which two or more companies form a Partnership or Joint Venture to act as a potential Prime Contractor (See FAR 9.601(1)); or, a potential Prime Contractor agrees with one or more other companies to have them act as its Subcontractors under a specified Government contract or acquisition program (See FAR 9.601(2)).

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(c) Offerors proposing as a CTA must [offer] as a single type of CTA. Combinations of CTAs are not acceptable. For example, a Joint Venture CTA utilizing subcontractors that are not members of the Joint Venture or a Prime/Subcontractor CTA utilizing a Joint Venture as a Subcontractor.

RFP amend. 3 at 317 (emphasis added). The solicitation further explains that: “[a]ll minimum requirements and scored evaluation criteria under L.5.1.2 [pool qualification projects] and L.5.3 [project experience] must have been performed by the CTA itself or the individual team members.” Id.

In essence, the solicitation allows small businesses to submit proposals as CTAs where the small business is a prime contractor and other firms act as subcontractors, and thereby rely on the experience of both the prime contractor and the subcontractors. Id. In contrast, the solicitation prohibits joint ventures, such as a mentor-protégé joint venture, from submitting proposals that rely on the experience of subcontractors. Id. The agency refers to a joint venture with additional subcontractors that are not members of the joint venture as a “hybrid” CTA. See MOL at 9-10.

Ekagra argues that the solicitation’s prohibition on so-called hybrid CTAs is improper. Protester’s Comments, Dec. 20, 2018, at 5. As discussed above, SBA’s regulations treat an approved mentor-protégé joint venture as a small business offeror. 13 C.F.R. § 125.9(d)(1); see also 13 C.F.R. § 121.103(h)(3)(ii). The protester argues, therefore, that such an offeror should be accorded the same ability as any other small business to form teaming arrangements with prospective subcontractors. Protester’s Comments, Dec. 20, 2018, at 5. The protester contends that neither the applicable SBA regulations nor the FAR require a small business offeror to choose between proposing as a mentor-protégé joint venture or as a small business prime/subcontractor team.

GSA argues that the challenged solicitation term is consistent with the FAR’s definition of a CTA. In this regard, the agency contends that the disjunctive “or” in FAR § 9.601 anticipates that offerors must propose as either a joint venture or as a prime contractor with one or more subcontractors. MOL at 9-10. As the protester notes, however, FAR § 9.601 states that a contractor teaming agreement is formed when firms “form a partnership or joint venture to act as a potential prime contractor,” or where “[a] potential prime contractor agrees with one or more other companies to have them act as its subcontractors. . . .” Protester’s Comments, Dec. 20, 2018, at 6 (quoting FAR § 9.601 (emphasis added)). The protester contends that this term anticipates that a joint venture may be a “potential prime contractor,” and that such an offeror could also agree with other firms to have them act as subcontractors.

SBA’s comments regarding this argument acknowledge that its regulations do not address CTAs described in FAR subpart 9.6. SBA Comments, Feb. 1, 2019, at 1. SBA notes, however, that a different type of teaming arrangement described in FAR § 2.101 --small business teaming arrangements--may include an approved mentor-protégé joint venture. Id. at 1-2. The SBA further notes that its regulations state that where an agency receives a proposal from an offeror that has formed a small business teaming arrangement, the agency “shall evaluate the offer in the same manner as other offers with due consideration of the capabilities of the subcontractors.” 13 C.F.R. § 121.103(b)(9). For these reasons, SBA states that “we do not believe it is permissible to restrict a small business teaming arrangement with a large business mentor to



consist[] solely of the large business mentor and its small business protégé.” SBA Comments, Feb. 1, 2019, at 2.

GSA argues, however, that 13 C.F.R. § 121.103(b)(9) is inapplicable here because it applies only “[i]n the case of a solicitation for a bundled contract.” GSA Response, Feb. 6, 2019, at 2-3 (quoting 13 C.F.R. § 121.103(b)(9)). Under the Small Business Act, a solicitation for a contract is bundled if it “consolidat[es] 2 or more requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern” due to concerns such as the size, value, or place of performance of the requirements. 15 U.S.C. § 632(o)(2); see also FAR § 2.101. As our Office has explained, a solicitation that is set aside for small businesses is, by definition, not “unsuitable for award to a small-business concern,” and is therefore not a bundled contract requirement.<sup>3</sup> Homecare Prods., Inc., B-408898.2, Mar. 12, 2014, 2014 CPD ¶ 98 at 4 (solicitation is not for a bundled contract where it is set aside for small businesses); Encompass Grp. LLC, B-405688, Dec. 9, 2011, 2011 CPD ¶ 272 at 2 (same). The solicitation at issue here is set aside for small businesses. RFP at 7.

For the reasons discussed above, we agree with Ekagra that FAR § 9.601 does not expressly require offerors to elect between two forms of contractor teaming agreements, nor does this term expressly prohibit a joint venture offeror from agreeing with other firms to act as subcontractors. To the extent, therefore, that the agency contends that the challenged solicitation term is required by FAR § 9.601, we do not agree. We agree with GSA, however, that 13 C.F.R. § 121.103(b)(9) does not apply to this solicitation, and thus find no merit to SBA’s argument that the solicitation violates its regulations concerning the evaluation of small business teaming arrangements.

In the absence of statutes or regulations which specifically require or prohibit this solicitation term, we look to GSA’s other rationale for its inclusion. GSA argues that the inclusion of the challenged term is reasonable because it avoids “significant administrative burdens” in assessing the documentation that offerors must submit. MOL at 11. For a joint venture CTA, the agency states that it “must conduct a review of specific proposal submissions for each individual joint venture member, as it is often not possible to evaluate these items for the joint venture itself when the joint venture is unpopulated [*i.e.* not fully integrated].” Id. The agency contends, therefore, that the following concern requires the solicitation’s prohibition on joint venture offerors forming CTAs with subcontractors that are not members of the joint venture:

Requiring the technical evaluators to determine which team members are individual joint venture partners, and which ones are first tier subcontractors, and accordingly which submissions are required from the

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<sup>3</sup> SBA does not specifically contend that the solicitation is for a bundled contract; the protester does not contend that the procurement is bundled or that 13 C.F.R. § 121.103(b)(9) applies, here.

former and the latter, substantially increases the overall level of effort and burden associated with the review of each proposal, and increases the likelihood of ambiguities and confusion in the source selection process.

Id. at 11-12.

We conclude that GSA does not reasonably explain why it would experience significant administrative burdens that warrant prohibiting joint venture offerors from teaming with subcontractors that are not members of the joint venture. GSA acknowledges that it must distinguish between prime and first tier subcontractors when evaluating a proposal submitted by a prime/subcontractor CTA. COS at 7; MOL at 11. The agency does not explain, however, why it would be significantly more difficult to distinguish between the members of a joint venture and its first tier subcontractors, as compared to a single prime contractor and its first tier subcontractors.

As the protester notes, the RFP requires an offeror proposing as a joint venture to provide information regarding the joint venture, including “a complete copy of the existing Partnership or Joint Venture agreement that established the CTA relationship.” RFP at 83. This agreement must, among other things, “[d]isclose the legal identity of each team member of the Partnership or Joint Venture,” and “[d]escribe the relationship between the team members.” Id. Because the offeror is required to clearly identify the members of the joint venture, we see no basis for the agency’s contention that it would be difficult to determine “which team members are individual joint venture partners, and which ones are first tier subcontractors.” MOL at 11.

On this record, we find no basis to conclude that the CTA limitation challenged by Ekagra is reasonable. As discussed above, the FAR does not require the agency to include this term, and the agency has not reasonably explained why allowing mentor-protégé joint ventures to compete as CTAs that include subcontractors poses significant administrative burdens that warrant inclusion of the term. We therefore sustain the protest on this basis.<sup>4</sup>

## CONCLUSION AND RECOMMENDATION

For the reasons discussed above, we conclude that the solicitation’s limitation on the ability of a joint venture to submit a proposal as a CTA that relies on the experience of subcontractors that are not members of the joint venture is unduly restrictive of

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<sup>4</sup> We note that this issue does not address how much weight an agency may accord to a subcontractor’s experience. As our Office has explained, the significance of, and the weight to be assigned to, a subcontractor’s experience is a matter of contracting agency discretion. Emax Fin. & Real Estate Advisory Servs., LLC, B-408260, July 25, 2013, 2013 CPD ¶ 180 at 6. Our decision here solely addresses whether the agency has justified the solicitation’s prohibition on joint ventures from submitting proposals that rely on subcontractors that are not members of the joint venture.

competition. We also conclude that Ekagra is prejudiced by this RFP term because, it contends, the solicitation prevents it from relying on the experience of proposed subcontractors to enhance its ability to compete for and win an award. Protest at 5; see CWTSatoTravel, B-404479.2, Apr. 22, 2011, 2011 CPD ¶ 87 at 12 (competitive prejudice occurs where the challenged terms place the protester at a competitive disadvantage or otherwise affect the protester's ability to compete). We recommend that the agency reassess its rationale for including the restrictive term and document its justification. If no such justification exists, we recommend that the agency amend the solicitation to remove the challenged term and request revised proposals.

We also recommend that the agency reimburse the protester's reasonable costs associated with filing and pursuing its protest, including attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d). The protester's certified claims for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained in part and denied in part.

Thomas H. Armstrong  
General Counsel